IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):   Susan Gaye Elkington, Randal Hess, Michael Dean Walker, and Jason Richard Huddleston

Assignee: Hewlett-Packard Development Company

Title: RESOURCE MANAGEMENT SYSTEM

Serial No.:	10/823,241	Filing Date:	April 12, 2004
Examiner:	Nam, Hyun	Group Art Unit:	2109
Docket No.:	200401303-1	Confirmation No.:	4068

Irvine, California
September 18, 2009

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COMMISSIONER FOR PATENTS
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REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

    This paper is being filed with the Pre-Appeal Brief Request for Review responsive to the Final Office Action dated August 15, 2008, having a shortened statutory period expiring November 15, 2008. A petition to revive is being filed with this response. Further examination and reconsideration are respectfully requested in view of the amendments and remarks set forth below.

OMISSION OF ESSENTIAL ELEMENTS REQUIRED
TO ESTABLISH A PRIMA FACIE REJECTION

The above-identified application is United States application serial number 10/823,241 filed on April 12, 2004. Claims 1-21 are pending in the application. Claims 1-21 are rejected.

Rejection of Claims Under 35 USC §101

Claims 19-21 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicants can simply amend the claims and specification as suggested by the Examiner.

Rejection of Claims Under 35 USC §103

Claims 1-21 are rejected under 35 U.S.C. §103(a) as obvious over Dandrea et al. (U.S. Application Publication 2002/0013864), herein after referred to as Dandrea '864, in view of Gunlock (US Patent 6,922,414), herein after referred to as Gunlock '414. Applicants traverse all rejections. All claims are allowable at least because Dandrea et al. and Gunlock fails to disclose a method, logic, or media that "identif[ies] the client and the server for which the command increases resource consumption to the predetermined level as a client/server combination identifier" and a "waiting queue for queuing a plurality of client/server combination identifiers." The Examiner admits that Dandrea et al. does not disclose the claimed aspects of operation, but refers to support for the aspects in Gunlock in figures 5, 6, and 7, and column 10, lines 51 and 6, and column 2, lines 33-36. The channel frame structure depicted by Gunlock in figure 5 and description from column 9, line 63, to column 10, line 40, relate to a frame with destination identification field (D_ID) and a source identification field (S_ID), failing to teach that the destination/source pair are identified for the condition of the command increasing resource consumption to the predetermined level.

In applicants' claimed system and technique, the client/server combination is not defined until detection of the specified condition (the command involving the specific

client and server increasing resource consumption above the predetermined level). Upon occurrence of the condition, the client/server combination is recognized and identified. The client/server combination identifier, which does not exist until the specified condition, is then queued onto the waiting queue. Thus the waiting queue only contains client/server combination identifiers for which the specified condition is present. In contrast, the destination identification (D_ID) and source identification (S_ID) are written to the frame header described by Gunlock irrespective of any resource consumption condition. The combination identifiers disclosed by Gunlock are fundamentally different from what is claimed by the applicants since none are defined by the specified condition. The Examiner refers to the command queue taught in column 10, line 51, of Gunlock both as disclosure of applicants' claimed condition (a command that increases resource consumption to the predetermined level) and a waiting queue for queuing a plurality of client/server identifiers, creating several logical inconsistencies. First, a queue as claimed by the applicants in which the elements queued are defined by a previous predetermined condition would never contain any elements if the predetermined condition is the filling of the queue. Second, the queue could never fill to cause the predetermined condition which creates the elements since no elements could ever be placed on the queue.

Claim 3 further distinguishes over Dandrea et al. in view of Gunlock which fail to disclose "enabling issue of commands from a client to a server identified by a client/server combination identifier in order of queuing as resource availability is restored." Neither Gunlock nor Dandrea et al. disclose the client/server combination defined by detection of the specified condition (the command involving the specific client and server increasing resource consumption above the predetermined level) as claimed.

Claims 5, 13, and 17 further distinguish over Dandrea et al. in view of Gunlock which fail to disclose "detecting an increase in consumption of a resource to a level above a preselected limit, and pushing the client/server combination identifier on a waiting queue associated with the resource." Neither Gunlock nor Dandrea et al. disclose the client/server combination defined by detection of the specified condition

(the command involving the specific client and server increasing resource consumption above the predetermined level), and queuing the client/server combination identifier as claimed.

Claims 6, 9, 14, and 18 further distinguish over Dandrea et al. in view of Gunlock which fail to disclose "removing a client/server combination identifier from the waiting queue in the queue order, and enabling subsequent commands from a client to a server identified by the client/server combination identifier removed from the waiting queue for operation." The combination of Gunlock and Dandrea et al. does not disclose the client/server combination defined by detection of the specified condition (the command involving the specific client and server increasing resource consumption above the predetermined level), dequeuing the client/server combination identifier, and re-enabling subsequent commands as claimed.

<u>CONCLUSION</u>

The application, including all remaining claims, are believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is invited to telephone the undersigned at (949) 251-0250.

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<tr><td>
I hereby certify that this correspondence is being electronically transmitted to the USPTO on the date shown below:

/Joy C. Ngo/
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September 18, 2009
(Date)
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Respectfully submitted,

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